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CHARLES C. MARSHALL



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**GOVERNOR SMITH'S
AMERICAN CATHOLICISM**

GOVERNOR SMITH'S AMERICAN CATHOLICISM

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by *Clinton*
CHARLES C. MARSHALL, 1860 —

WITH WHICH IS REPRINTED MR. MARSHALL'S
"OPEN LETTER TO GOVERNOR SMITH"
AND HIS
"REJOINDER TO GOVERNOR SMITH'S REPLY"



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PREFACE

A VOLUME entitled *Progressive Democracy: Speeches and State Papers of Alfred E. Smith*, edited by Dr. Henry Moskowitz, is now in circulation throughout the United States. Under the heading of "Religious Liberties" is reprinted from the pages of the *Atlantic Monthly*, May, 1927, Governor Smith's reply to my letter to him in the preceding number of that monthly. Dr. Moskowitz states in his preface that Governor Smith's letter "is his most comprehensive treatment of the relation between Church and State." The document is thus given the status of a State Paper, in virtue of which it justly invites not only the interest of the American public but that of the world in the present discussion of the relations of the Roman Catholic Church to modern politics. It is in recognition of that status that it is considered in the following pages. My letter to Governor Smith evoking his reply, and my rejoinder contesting his charge of "false" imputations and conclusions on my part, are reprinted herewith. Convenience would have been served by reprinting Governor Smith's letter here, but the restrictions of the copy-right law have prevented.

CHARLES C. MARSHALL.

New York, August 18, 1928.

GOVERNOR SMITH'S AMERICAN CATHOLICISM

I

AT the time of the appearance in the *Atlantic Monthly* of Governor Smith's reply to my Open Letter to him, no one acquainted with the religious situation in the world could have failed to sense the two-fold and far-reaching significance of his letter. At home, in the New World, it made Governor Smith available—he was already eligible—for the Presidency, establishing with the voter a confidence that the candidate, in the discharge of the great office, if he attained it, would recognize the claims of the State as supreme over the claims of the Roman Catholic Church in the disputed territory of moral interests, as the State and not the Church defined those claims and those interests. The way was opened for the citizen to take the candidate at his word, and he was not a man to whom the public imputed subterfuges.

Abroad, in the Old World, the letter awoke the consciousness of men, perplexed with the conflict between the Church of Rome and the

political states of Europe, to the fact that new wine was bursting old bottles, and that the Vatican Conciliar decrees of 1870 and the present-day profession of faith in that Church when projected against the background of American constitutional principles and civic life were revealed as in conflict therewith. Europe saw that in the New World a Roman Catholic statesman of intrepid spirit had set forth convictions in respect to the relation of his Church to the State that, to the European mind, were in flat conflict with the decrees of 1870, and what the Popes had asserted and the Church had practiced as integral in religious faith since that date,—and there was neither denial, rebuke nor admonition from ecclesiastical authority.

In publishing his letter among his State Papers Governor Smith recognized the religious issue as justly a political issue, not only in the United States but in the world. In so doing he acted in a spirit of wisdom and of tolerance, contrasting happily with that spirit of unwisdom and intolerance that has caused even such a benevolent man as Dr. van Dyke to impute “prejudice” and “bitterness” to those who insist that the religious question shall be discussed and understood. To desire such understanding, to question and to argue

concerning a subject that is stirring in the minds of men throughout the world, that has made *L'Action Française*¹ a national question in France, "Vaticanism" a problem in Italy, the supremacy of the Constitution a struggle in Mexico, and the relation of the Roman Catholic Church to civic life an embarrassment in the United States, is not, as Dr. van Dyke says, "to take the first step backward toward an era of intolerance and disuniting strife." On the contrary, it is to take another step forward in the final adjustment of the relation of the doctrine and dogma of the Church of Rome to the political principles of the modern world. It is to press onward to the hour when the Church shall voluntarily re-define its claims as now expressed in the decrees of 1870, so that government in the modern state by the consent of the governed shall no longer be challenged at vital moral points by a government in the Pope, in virtue of a moral sovereignty, in theory, created and conferred on him by the appointment of Jesus Christ, independent of all human responsibility and limitation, supreme and invincible. When that hour comes the convictions and beliefs declared in his let-

¹ A short statement explanatory of *L'Action Française* will be found in my book, *The Roman Catholic Church in the Modern State*, pp. 252-254, Dodd, Mead & Company, Publishers, New York.

ter by Governor Smith will become the doctrine and the dogma of his Church. Where they stand now in relation thereto is the subject of profound consideration, not only in the New World but in the Old World, as we shall proceed later to show.

It is clear, and we shall make it clearer, that at the time when Governor Smith appeared upon the stage of American political life as a personality who could justly claim consideration as a candidate for the highest office in the gift of the people, the issue between the Roman Catholic Church and civil government all over the world was a vital and current issue, and had been since the development of nations had developed national states, each necessarily claiming jurisdiction over the moral interests of their respective peoples. It is obvious that the national states of the world cannot, without self-nullification, concede the sovereignty in Divine Right of the Pope over the moral interests of a part of their peoples. It is equally obvious that the Pope cannot in reason assert a moral sovereignty over his subjects in all states to the exclusion of the moral sovereignty of those states. The throne in the Vatican would become the determining center for the moral interests of the world. Its power would be limited only by the number of its subjects,

who are multiplied indefinitely by the activities of an ecclesiastical organization that inevitably increases its power by multiplying those who share it. Majorities are not essential, for in the democratic State, as has been well said: "The will of highly-organized and resolute minorities may prevail over the will of the inert and unorganized mass."

The candidacy of Governor Smith pointed the issue locally, and his letter contributed to the world-wide discussion of Papal claims that was already, as we have noted, in full progress, and will presumably continue long after the Presidential issue of the campaign is decided and forgotten. It is an absurd notion that such discussion should be suspended because a distinguished Roman Catholic is a candidate for office. Such candidacy cannot be urged, as Dr. van Dyke and others seem to urge it, as just grounds for stopping the wheels of thought, or suspending, on the grounds of "intolerance," the world's discussion of the problem that lies between the Church of Rome and the civic life of man. Such was obviously the broad-minded opinion of the candidate himself or his letter would not be published as one of his State Papers and the religious issue so formally introduced into the political campaign.

The letter expressed, unconsciously it may be, the protest of the modern mind against archaic and invalid conceptions of ecclesiastical government and polity asserted in the doctrine and dogma of the Roman Catholic Church. It had a two-fold significance—a significance that was national and American and a significance that was supra-national and universal.

There was embedded in certain strata of American life the pernicious and unworthy notion that a Roman Catholic could not be entrusted with the highest public office in the gift of the nation because of his religious faith. This was carried to the extent of maintaining that, in spite of the Constitutional provision prohibiting a religious test for office, there was a conflict between the doctrine and dogma of that Church and the American State that worked an implied religious test against Roman Catholic candidates, in effect nullifying the express Constitutional provision. The notion should have perished of its own absurdity. To urge it in the present instance was as discreditable as it would have been, nearly a century back, to discriminate in political life against Southern gentlemen like Calhoun and Taney because they, in their political philosophy, conscientiously held constitutional the right at that time of a sovereign American

State to secede. It would be indeed a monstrous view that honest men cannot be elected to office in the United States if in a case where they might in good conscience find themselves at the call of two conflicting loyalties their only course must be the betrayal of one of them. It is despicable to suppose that high-minded Roman Catholics would not instantly resign office as quickly as men of other religions when and if the alternative were the betrayal of one loyalty in favor of another. Governor Smith's letter gave unqualified assurance that in his discharge of the highest civic trust from the American people he would never allow his loyalty to his Church to conflict with his loyalty to the State, as the State (not the Church) defined such loyalty. Of the doctrines and dogmas of his Church he disclaimed personal knowledge, asserting that whatever he said in definite answer to theological questions he learned from an eminent priest, in whom the public recognized a brave Chaplain of the World War. He denied his own acceptance, or asserted his unconsciousness, of doctrines and dogmas that the public mind, in large part, commonly associated with Roman Catholicism. He claimed that the "imputations" in the letter he was answering were "false." He in effect disclaimed responsibility for the moral teach-

ing of the Popes in Encyclical Letters, which his Church holds binding *de fide* on the obedience of its members, and averred that he had never heard of specific statements by late Popes, including the momentous *Syllabus* of Pope Pius IX. He dispensed with all reference to the decrees of the Vatican Council of 1870, and made no reference to the present-day profession of faith. All this disclosed an independence of thought and purpose, a recognition of the supremacy of the individual conscience, a determination to hold to what the Church ought to teach rather than to what it actually teaches; and, in the opinion of the public, it revealed a man of sincere and honest intent to do, in the discharge of a high trust which might be confided to him by the State, what the doctrine of the State might demand in case of a conflict with the doctrine and dogma of his Church.

All over the country doubts and apprehensions as to Governor Smith's personal convictions were instantly dissolved. There was a profound sensation of relief. He was regarded as recording the changes in religious consciousness that, while prevalent and vital in American religious life, have, as yet, had no effect either in definition or teaching on the doctrines and dogmas of his Church directly or indi-

rectly asserting the moral supremacy over the State at all vital points of the Supreme Pontiff in his Divine Right. If, as we have said, he did not state what the doctrine and dogma of his Church was, he stated what it ought to be, and what for him it would be in his discharge of the trust of public office. The comment of the press was that all this indicated the existence of something that was curiously designated as "American Catholicism." Indeed it was so designated in the letter. Mr. Walter Lippmann, a devoted friend and political supporter, recorded it as his opinion that Governor Smith's declarations amounted to saying that there is an authority higher than the utterances of the Church or the law of the land, namely, "the common morality of all God-fearing men . . .," and, again, that "if Governor Smith were not a Catholic in good standing, if the reply had not been made with the approval of members in good standing of the Catholic Hierarchy, one would be tempted to say that he has avowed the essential Protestant doctrine of the right of private judgment in all matters where any secular interest was involved"; and again, that "for American Catholics there is absolutely no distinction between their attitude and the attitude of Protestants. The ultimate authority, says Governor Smith, is conscience."

A leading Protestant journal, *The Congregationalist*, held that the letter confirmed the view "that here in America Roman Catholic authority, theory, and practice are being profoundly modified—so much so that it becomes apparent that there is developing in this country a Catholicism that, except in its historic associations and in its formal connections, is more American than Roman."

Thus the public ignored the absurdity that the fiat of any layman, even when approved by local clerical authority, could revoke, nullify or amend the ecumenical decrees of the Church and the authoritative teaching of the Supreme Pontiff. It was enough that one whose chances of nomination were so brilliant dared to make statements concerning his personal convictions so radical and, therefore, so reassuring. The "religious issue" no longer meant that a Roman Catholic was necessarily a man lying in wait to betray a trust. The Roman Catholic religion ceased to be a "disqualification," and its profession by a candidate became no more than one of many factors entering into the question of his qualifications for the greatest trusteeship in the gift of the nation. No one can for a moment maintain that all such factors, religious or non-religious, are not the legitimate subject of consideration by the elec-

torate, free from all that imputation of bigotry and intolerance that is now in many quarters heaped upon those who insist that the religious issue shall be discussed on the same lines, and no other, as the prohibition question or farm relief. The question at issue is the question of qualification for a great moral and political trusteeship. What a man himself believes in respect to the source and administration of moral authority in the world must most surely affect his qualifications for the Presidency. That is true; and it is also true that what an organization, of which he is a loyal member, says he must believe in respect to that matter, in order to escape the loss of salvation, affects those qualifications. For it is of the essence of every such trust that the trustee selected should not only be free from adverse interests and *a priori* commitments but that he should be believed by all the beneficiaries of the trust—the entire citizenship of the State—to be so free. Only by the insistence on such qualifications in the trustee can such a trust be justly vested and its administration carried through to its termination without embarrassment on the one side or the other, and possible interruption or miscarriage of the trust itself.

In their admiration for the personal character and public record of Governor Smith, in

their confidence in his word, many of his fellow citizens will overlook the grave considerations here alluded to. They will believe that no practical conflicts of civil and ecclesiastical interests will arise in four years, or, if they do, that Governor Smith, fertile in resources and bold in action, will then compel the adjustment of the claims of the Church in conformity with his own views, as expressed in his *Atlantic Monthly* letter. They know that he will find a way out consistent with honor. Their right, their justification, in all this is clear. But the right and the justification of others to view the great question differently (without being abused as intolerant) are equally clear. In this conclusion I venture the assertion that no one would concur more heartily than the candidate of the Democratic Party.

No injustice is done Governor Smith by those who accept his declaration as a frank and sincere statement of his personal convictions and belief, and yet persist in the question as to how those convictions and beliefs are reconciled to the present-day decrees of his Church, to which every member of the Church is required to subscribe under the penalty of eternal damnation. Bigotry and intolerance should not be attributed to citizens who refuse to accept the words of members of the Hierarchy, here and there,

as superior, in defining the faith of Roman Catholics, to the Ecumenical decrees of the Vatican Council of 1870, the Encyclicals of the Popes, or the present declaration of faith.

The Roman Catholic profession of faith since 1870 reads as follows:

“I . . . undoubtingly receive and profess all . . . things . . . declared by the Sacred Canons and General Councils, and particularly by . . . the Ecumenical Vatican Council especially concerning the primacy and infallible *magisterium* of the Roman Pontiff; and I condemn, reject and anathematize all things contrary thereto, . . .”

The date of the Vatican Council was 1870. It decreed:

“ . . . We teach and declare that by the appointment of our Lord the Roman Church possesses a sovereignty of . . . power . . . of jurisdiction of the Roman pontiff . . . to which all . . . both pastors and faithful, both individually and collectively, are bound, by their duty of hierarchical subordination and true obedience, to submit . . . in matters which belong to . . . morals . . . This is the teaching of Catholic truth, from which no one can deviate without loss of faith and of salvation.”

On January 6, 1928, the present Pope declared that Roman Catholics believe in the power of the Pope, *in the sense determined by the said Vatican Council*, just as much as they believe in the Incarnation of Jesus Christ. It is, therefore, clear that in matters belonging to morals a Roman Catholic is today bound by his duty of subordination and true obedience to submit to the Pope, and the penalty is the loss of salvation.

This subordination and obedience to the Pope in matters which belong to morals is the key to the control at Rome of the moral issues and culture of human life throughout the world and, therefore, to the possession of the vast heritage of power and wealth that inevitably follows on that control.

The declarations presented in these Roman formularies are few and of plain meaning. They cover the doctrine and the dogma of the Roman Church out of which its conflict with the State has always risen, and in which it is rooted today. They affect life in every department. It is obviously absurd to claim that they can be intelligently understood and applied only by the Hierarchy of that Church, and that the world, though profoundly affected by the declarations, must in its understanding of them defer to oracular utterances from time

to time by that Hierarchy. The world will not rest content with Hierarchical assurances of what "is." It will press the question "how," and demand that the assurance of what "is" be reconciled to its own satisfaction with what it reads in the decrees of Ecumenical Councils, Encyclicals of Supreme Pontiffs, formularies of faith, and what it knows from well-thumbed volumes of religious history. The fact is apposite that Governor Smith himself, in his attempt to answer questions of direct civic importance in both American and European history, found them so complicated with Roman Catholic theology that, as he frankly stated, he took counsel with a priest "schooled in the Church law."

The Pope's moral jurisdiction expressed in the formularies above referred to covers in its claims every department of human life in every civil State. It is effective in every State to the extent to which Roman Catholics are represented therein. The representatives of Anglicanism or of Methodism, it is true, carry into every department of human life in every State an influence relative to their numbers, but their influence is a domestic *influence* and not a foreign *jurisdiction* or sovereignty in Divine Right. Neither asserts a moral supremacy superior to the State. The Roman

Catholic Church resolves itself inevitably in every State by force of the law of its being into a solidarity of its members within the citizenship, which solidarity, owing obedience and subordination *de fide* to the Pope in Divine Right, is necessarily, irrespective of its free will, subject to the control of the Pope and to the government of the Roman Church in all the moral issues of life. The result in the electoral State, operated as it is through political parties, is prodigious. Here is the subterranean way, intricate but sure, by which the Church of Rome in the modern political world penetrates the State and takes possession of its strongholds of power for its own advantage.

It is frankly taught by Roman Catholic authority from the shelf of every public library in the United States that in matters not *purely* secular—that is, in all moral matters and mixed secular and moral matters—if the citizenship is preponderantly Roman Catholic “the [Roman] Church has in consequence jurisdiction . . . over the State.”

The ultimate result is the supremacy, in theory and, wherever it can be attained, in practice, of the Pope and the government of the Vatican in the laws, moral culture, education and civilization of every civic community in the proportion in which our Roman Catholic

brethren preponderate. The whole cultural life of the State can be influenced and moulded from the Vatican, a center extraterritorial to the State, and so influenced and moulded by the will of one, in the alleged right of Almighty God, elevated to absolute power by Cardinals of his own choosing, independent alike of and irresponsible to the membership of the Church or the citizenship of the State.

The mind cannot be closed, save by invincible prejudice, to the fact that a civic community or State motivated in moral matters through a Roman Catholic solidarity by an ecclesiastical government at Rome differs radically from one motivated by the Civic Primacy of its people within the State. Of that Civic Primacy, free in moral consciousness and conscience, the Roman Catholic solidarity within the State is intrinsically no lawful part, for it is not free in matters belonging to morals so long as it is under the profession of faith based on the decrees of 1870. With such a Roman Catholic solidarity incorporated in its citizenship the modern State becomes in its culture and laws the hybrid product of the paradox of two moral sovereignties: one located at Rome, the other, in theory, located in the Primacy of the People, which, however, is nullified *pro tanto* by the

operation of the sovereignty at Rome through the Roman Catholic solidarity within the State. Under the constitution of the modern State, the electoral State, it cannot be otherwise. It is a natural and inevitable result (free from all malice of purpose) of religious doctrine and dogma in conflict with the civic constitutional order.

The machinery of Papal moral supremacy throughout the world is widely extended and intricate. To this fact Mr. George Wharton Pepper has lately given apt expression in a valuable discussion of Papal claims:

“The essential papal jurisdiction extends to the following exclusive functions of major importance: to make ex-cathedra declarations on questions of faith and morals, which decrees are irreformable; to set forth creeds; to prescribe books of instruction, to establish universities, to direct missions, to prohibit the reading of books injurious to the faith, to condemn specific propositions as heretical, to determine what is lawful in social relations and in family life, to prescribe liturgical services, to canonize saints, to legislate for the whole Church either directly or through a Council whose acts are subject to his confirmation, to modify or annul existing canons, to exercise supreme judicial authority, whether original or appellate, to nominate cardinals, to establish dioceses and

nominate (or confirm the nomination of) bishops throughout the world, to approve new religious orders and subject them to his own direct authority by exempting them from local episcopal jurisdiction, and to lay upon the faithful taxes for ecclesiastical purposes.”²

It is the very commonplace of teaching in Roman doctrine that in the realm of morals, in case of direct contradiction making it impossible for the State and the Roman Catholic Church both to exercise their jurisdiction, the jurisdiction of that Church prevails and that of the State is excluded.

It is futile to maintain that such powers vested in and exercised by the Pope may not often affect, and even control, the secular affairs of the electoral State where those involve moral matters. Pope Leo XIII in 1890, in one of his Encyclicals to the Christian world, declared:

“... in the public order itself of States—which cannot be severed from the laws influencing morals and from religious duties—it is always urgent, and indeed the main pre-occupation, to take thought how best to consult the interests of Catholicism.”

² *Atlantic Monthly*, August, 1928, pp. 250-251.

The inevitable result of the Papal system in putting the moral culture and resources of the electoral State in the hands of the Pope and his government at Rome, in virtue of the Roman Catholic solidarity in the State, is demonstrated by reference to an Act of the Legislature of the State of New York, approved by the Governor March 7, 1928, entitled *AN ACT to incorporate Archbishopric of New York*. This Act provides that the Archbishop of the Roman Catholic archdiocese of New York, the Vicar-General thereof and the Chancellor thereof, and their successors, shall be a corporation under the name of *Archbishopric of New York*, its purpose being to aid, support and advise any charitable, religious, benevolent, recreational, welfare or educational corporation, association, institution, committee, agency or activity now or hereafter existing within the State of New York or elsewhere. The Act gives to this corporation thereby formed power to take and hold, free of taxation, any property, real or personal, without limitation as to amount or value except such as may hereafter be prescribed by law; to apply such property and the income thereof in such manner as in the judgment of its trustees will best promote its objects.

Many objections have been alleged against

this Act, some fairly, some unfairly. It has restrictions with which its critics have not yet credited it. The objection which we would point out here is that the offices in the Church on which the trusteeships depend are held by the trustees, directly or indirectly, at the will of the Pope, and they have no authority against that will. The decrees of the Vatican Council of 1870 expressly declared, as we have seen, that these officials in matters relating to morals are neither independent nor free, but are bound by their duty of hierarchical subordination and true obedience to submit, in the moral matters which belong to the trust, to the sovereignty of jurisdiction of the Pope in his Divine Right. When, therefore, the Legislature of the State of New York makes these officials and their successors trustees in perpetuity of the great moral trusts enumerated in the Act, and vests in them the vast properties covered thereby, free of taxation, the trusts and the property, although legally vested in them, are in fact vested in the Supreme Pontiff at Rome and, in the last analysis, placed in *his* control as much as though he had been named sole trustee under the Act. The difference between this Archbishopric Foundation and the Carnegie or Rockefeller Foundations is that the former is motivated from Rome, the latter from within

the State. The former violates the autonomy of the State, the latter are in harmony with it. In the former there is involved not only a question as to the validity of the exercise of legislative discretion but also a question of the constitutionality of the Act. That question arises out of the vesting of the property and the trusts over the moral interests designated in the Act in trustees who are inevitably appointed by the Pope, and whose profession of faith just as inevitably transfers their ultimate discretion to the Pope's extraterritorial and alien sovereignty at Rome.

In summarizing his personal creed as an American Catholic, Governor Smith affirms:

“I believe in the support of the public school as one of the corner stones of American liberty. I believe in the right of every parent to choose whether his child shall be educated in the public school or in a religious school supported by those of his own faith.”

Canon 1372 of the Roman Catholic Church provides that Roman Catholics from their childhood must be taught nothing contrary to the Roman Catholic faith and good morals, and Canon 1374 provides that Roman Catholic children shall not attend non-Catholic or undenominational schools, nor schools attended

by non-Catholics, excepting as the Bishop of the diocese under the instruction of the Pope may permit.

Governor Smith affirms:

“I believe that no tribunal of any church has any power to make any decree of any force in the law of the land, other than to establish the status of its own communicants within its own church.”

But the Vatican Council of 1870 made a decree that imposed the supremacy of the Pope in Divine Right in matters belonging to morals as an article of faith on every citizen of the State who is a Roman Catholic. The decree was clearly of *force* in the law of the land with those citizens whose profession of faith subjected them to it.

Governor Smith affirms:

“I believe in the absolute separation of Church and State . . .”

Pope Leo XIII in his Encyclical Letter on *The Christian Constitution of States* said that the State should make a public profession of the Roman Catholic religion, and in his Encyclical Letter on *Human Liberty* he characterized the separation of Church and State as “that fatal principle.”

Governor Smith affirms:

“I believe in absolute freedom of conscience for all men . . .”

The decrees of the Vatican Council of 1870 declared, and the present profession of faith of the Roman Catholic Church teaches, that Roman Catholics are bound by their duty of hierarchical subordination and true obedience to submit in matters which belong to morals to the power of jurisdiction of the Roman Pontiff, and that this is the teaching of Catholic truth, from which no one can deviate without loss of faith and salvation.

Governor Smith affirms:

“I believe . . . in equality of all churches, all sects, and all beliefs before the law as a matter of right and not as a matter of favor.”

Pope Leo XIII, in his Encyclical on *Human Liberty* in 1888, said:

“Justice therefore forbids, and reason itself forbids, the State . . . to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges.”

Governor Smith affirms:

"I recognize no power in the institutions of my Church to interfere with the operations of the Constitution of the United States or the enforcement of the law of the land."³

Pope Leo XIII, in his Encyclical Letter *On the Chief Duties of Christians as Citizens*, in 1890 said (words in parentheses are interpolated):

"... if the laws of the State are manifestly at variance with the divine law, containing enactments hurtful to the [Roman] Church, or conveying injunctions adverse to the duties imposed by [Roman Catholic] religion, or if they violate in the person of the supreme Pontiff the authority of Jesus Christ, then truly, to resist becomes a positive duty, to obey, a crime . . ."

and the authorized teaching of Roman schools is:

"What right has the Pope in virtue of this supremacy?

³ Some criticism has been made of this statement because of the use by Governor Smith of the word "power" and of the word "interfere." But no just person will tarry long over this consideration, for he has said that he speaks "without mental reservation." It is true that the Church could have no "power" to "interfere" with the operation of the Constitution of the United States or with the law of the land. It might, however, have "authority" to "direct" where it had no "power" to "interfere."

“The right to annul those laws or acts of government that would injure the salvation of souls or attack the natural rights of citizens.”

Out of the difficulties precipitated by the conflict between the doctrine and dogma of his Church and the American State Governor Smith has lifted himself but not his Church. He has enabled his fellow citizens to vote for him as an “American Catholic” who, in virtue of an “American” Catholicism, in case of conflict between his Church and the State during his term of office, will find some means, certain and sure, though at present unknown, to maintain in its intrinsic integrity the principle of the supremacy of the State. But the doctrine and dogma of the Universal Roman Catholic Church still prevails, unaffected by the declarations of its eminent son.

II

Interesting and significant as Governor Smith's letter was from the American point of view, the Old World found it no less so. It quickly drew the attention of the press in specific instances in France, England, Spain, Italy, Egypt, Australia, China and Ceylon. It was clear that it was declaring beliefs and convictions in respect to the doctrine and dogma of the Church of Rome, affecting its relations to

the modern political world and to integral Christianity, which were as novel to European thought as they were alluring.

The ancient Patriarchs of the Eastern Church were listening to declarations from an American Catholic that, in effect, nullified that Supremacy and Infallibility of the Pope in Divine Right that had kept those Patriarchs for the last nine centuries separated from the Church of Rome. Ancient civilizations of the Far East, just awakening to the political principle of government by consent of the governed as a divinely-appointed principle of human society, and of the Civic Primacy of the People as supreme in the State, now heard that principle in effect asserted as applying to the Roman Catholic Church, although that Church had repudiated it as contrary to the institution of Papal absolutism in its own government. Europe, torn with the convulsions of religious strife through two thousand years, and even now shaken in politics at its very heart in France with the Pope's condemnation of *L'Action Française*, welcomed the letter as the contribution of American Catholic thought as to what the doctrine and dogma of the Church ought to be, if not what it is. In the European mind it was an instance where, in the historic words of Canning, the needs of

the Old World might be redressed out of the balances of the New.

In Europe as in America "the age of theology had given way in politics to the age of sociology." Dynastic states of Europe had yielded to modern sociological states, to government by consent of the governed, to the transfer of sovereignty from the government to the Civic Primacy of the People, but the Roman Church stood rigidly fixed in its medieval theological form. It was, in its own theory, still one of two world-sovereignties, itself and the State—the two powers united in a specious partnership and dividing the power and the wealth of the world between them. Its conception of its own position in relation to the civic order stood as taught by Pope Gelasius in the fifth century, for the decrees of 1870 were the embodiment of his conception. It knew the State had changed. Pope Pius IX in his teaching and in his political collaboration with Louis Napoleon, the despot of France, and with reactionary governments at Madrid, Vienna and Naples, made an hysterical effort toward adjustment, but it terminated in the disaster of the Vatican Council. Its conception of the State was still confused with the identification of the State with rulers—the Tudors, the Bourbons, or Bonapartes. It was slow in

realizing that in the modern State the voters, panoplied with political power and ultimate sovereignty, must be dealt with by the Church in the assertion of its claims in the place of a Henry VIII or a Louis Napoleon. In fact the State envisaged in the political philosophy of the Church of Rome had disappeared with its hierarchy of rulers, its orders, its estates, its classes, and its ecclesiastical subordination in moral interests to the See of Rome. The new State of modern sociology was at hand, based on the divine law that human association is the divine way of progress and of truth; that it is an association of equal political units, each guaranteed his free consciousness and freedom of conscience, and subject only to the divine will as it is ultimately expressed by the collective will of the community and the collective conscience of good men. We say "ultimately" for the State in its divine life is not a thing of yesterday, today or tomorrow. Burke was right when he defined it as a partnership between the living, the dead, and the unborn. Its existence is continuous, and truth is grasped in all fullness only in ultimate experience, and not in the definition of supreme pontifical authority. In that experience religion is an essential part insofar as it is an aspiration and a life. As such it has its place as an aid to,

but not as a co-sovereignty with, the State. Its dogmas, confined to the province of faith, may well be the foundations of spiritual and moral regeneration in the State, but when ecclesiastical government, through an individual as Vicegerent of God on earth, is made the dogma of a Church and an article of faith, the sovereignty of every State in the modern world is instantly invaded. Such was the subconscious state of political thought in Europe from 1870, on which Governor Smith's declaration broke with agitating effect. In France, at the very heart in Europe of the question of the relation of the Church of Rome to the civic State, his convictions found sympathetic minds profoundly disturbed by the shipwreck in France of a political party⁴ through excommunication and the condemnation of its journal by the decree of the Pope prohibiting its perusal and support by Roman Catholics.

On July 16, 1927, the French journal *New Europe* (*L'Europe Nouvelle*) reprinted a translation of Governor Smith's letter in full. Commenting on the document editorially it said:

"... this profession of faith is chiefly important, not so much because he who

⁴ No commendation of the aims or methods of that party is implied in these pages.

expressed it will be, it is said, a candidate for President of the United States, as because he defines perfectly clearly the doctrine of American Catholics—who number more than twenty millions—regarding the relation of the State to the churches in general, and to the Catholic Church in particular; for this reason if not for the first, it deserves to receive and retain the attention of old Europe . . .”

Analyzing the doctrine set forth by Governor Smith, *New Europe* held that it deliberately contradicted that of the *Syllabus* of Pope Pius IX. The conclusion was inevitable, for the *Syllabus* of that Pope has declared it is not true that every man is free to profess the religion of his choice; it is not true that the Roman Church ought to be separated from the State and the State from that Church; it is not true that in the case of conflicting laws enacted by the Roman Church and the State, that of the State prevails.

The letter seems, *New Europe* maintained,

“as regards the thoughts expressed, to be related to the liberal Catholicism of Montalembert; regarding its judicial foundation it does not differ materially from that on which the celebrated liberties of the ancient Gallican Church were founded.”

This was significant language indeed, for Montalembert, who was known to Frenchmen as statesman of France and devout son of the Church, speaking during the session of the Vatican Council of 1870, declared:

“Never, thank Heaven, have I thought, said or written anything favourable to the personal and separate infallibility of the Pope, such as it is sought to impose upon us; nor to the theocracy, the dictatorship of the Church . . . nor to that absolutism of Rome . . . which today forms the symbol and the programme of the faction dominant among us.”

Vivid in the popular mind were the burning words in which he referred to the “lay theologians of absolutism who began by squandering all our liberties, all our principles, all our former ideas, before Napoleon III, and afterwards immolated justice and truth, reason and history, in one great holocaust to the idol they raised up for themselves in the Vatican.”⁵

But the most interesting declaration by Montalembert which lingered in the minds of Frenchmen was that in which he saw in America that American Catholicism which Governor Smith professes today, and claimed that such “*American*” Catholicism would have to

⁵ See London *Times*, March 7, 1870, in which Montalembert's letter was printed.

become the "*Roman*" Catholicism of the world. The following are his words:

"In the political order we are already delivered from the régime which false and servile spirits have acclaimed as the apogee of order and of progress; and we now see re-born public life with liberty. In the religious order, I am convinced, notwithstanding the appearances to the contrary, that the Catholic religion, without submitting the least alteration in the majestic immutability of her dogmas, or of her morale, will adopt in Europe as she already has in America those inevitable conditions of modern society, and that she will live, as always, the great consolation and light of human life."⁶

It is clear that as Europe since the Great War has sprinkled the Old World with national states and democratic governments she has come to feel what America has long known—that the dogmatic decrees of 1870 as they stand are irreconcilable with modern political life. She has seen the force of Montalembert's prophecy. New wine in Europe, as in America, is bursting old bottles, and the Hierarchical Church must adjust its dogma to the declarations of Montalembert and of Governor Smith. It is of unhappy significance that the declara-

⁶ R. P. Lecanuet, *Eglise et le Second Empire*, Montalembert, Vol. 3.

tions of Montalembert were followed within a few months by the decrees of the Vatican Council, and the declarations of Governor Smith in less than a year by the Encyclical of Pope Pius XI, reaffirming those decrees as integral in the faith of Catholics.⁷ On both occasions the supreme voice of the Church of Rome spoke with annihilating effect against the declared convictions of both the French and the American Statesmen, and against the reconciliation of Roman doctrine and dogma with American Catholicism.

What are the liberties of the ancient Gallican Church to which *New Europe* referred as like, in judicial foundation, to Governor Smith's convictions? These famous liberties constituting Gallicanism were asserted in definite articles by the Clergy of France in 1682. The most famous article declared, in effect, that Kings cannot be deposed and their subjects cannot be dispensed by the Pope from their allegiance to their governments. Gallicanism, says an eminent Roman Catholic author, was stricken to death in the decrees of the Vatican Council of 1870. The Gallican liberties, *New*

⁷ On Montalembert's death, shortly after his famous letter appeared, the Pope refused to allow a solemn service for him, but a few days later relented and gave orders that an Office should be sung, which he attended, seated in a barred gallery.

Europe declared, rested on the law that the decrees of the Universal Church could not be published in France until they had been examined by the Government and approved as conforming to the laws. With American Catholicism, it claimed, no such law of the State was necessary, because with American Catholics, in view of their privilege or dispensation, no demand by their Church can arise to work a question of conscience between them and the State. The teaching of Bellarmini and the Roman theologians, said *New Europe*, that it is the province of the Pope to himself determine his own competence, is not accepted in the United States; there it belongs to the Supreme Court to fix the limits of the sphere of influence of the Church and the State. "Therefore," *New Europe* concluded:

"American Catholics consider themselves emancipated from medieval tradition which, in the old world, weighs so heavily on the development of the Catholic Church; they do not wish to be considered as responsible for the inquisition, for the immunities, for the indirect power, or for the pretension to the monopoly of education . . ."

Referring to Governor Smith's declarations that Papal Encyclicals are not articles of the

Catholic faith, and that the *Syllabus* of Pope Pius IX has no dogmatic force, and that he should not be asked to defend the statements of prelates as part of his faith, *New Europe* declared that in Europe, Encyclicals, the *Syllabus*, and prelatical statements demanded the assent of the faithful. Pope Pius X, in his address to the priests of the Apostolic Union, was quoted to the effect that when one loves the Pope one does not question his orders, and one does not limit the field in which he can and should exercise his will. Governor Smith's letter, it was said, had been explicitly approved by Mgr. Shahan, Rector of the Catholic University at Washington, and by Mgr. Carroll, Chancellor of the Archdiocese of New York. The opinions it expressed, it was alleged, were entertained in the United States by laymen, priests and bishops, without express reprobation from Rome. Americans, it was suggested, neither heard nor heeded the doctrine and dogma of the Universal Roman Catholic Church, and it was concluded that they must enjoy a privilege or dispensation in derogation of the common law of the Church. In fact, it was said, the Holy See can, in certain issues, act in derogation of the law of the Church by a concordat, a privilege, or an immemorial custom. Is the American Catholic Church, it

was asked, in possession of such a special privilege?

The question whether the United States was in the enjoyment of such a privilege or dispensation from the Holy See raised concretely the question whether the declarations of American Catholicism by Governor Smith are made in virtue of inherent right and objective truth, or as a development of expediency which the Supreme Pontiff, in the exercise of his recognized absolutism, may permit, for the time being, through *privilegium* or dispensation, without in any way denying, as requisite in faith, belief in the prerogatives of supremacy and infallibility over the moral interests of mankind. If made and conceded by reason of considerations of inherent right and objective truth, the declarations are of profound and far-reaching importance in the civic and religious life of man. If made and conceded by reason of considerations of mere expediency, they are of no value, and to them, as to the aberrations of the hour, we may oppose the sure deductions of religious history.

Quite as an echo of the journal of Old France, *L'Evenement* of New France, as quoted in the *Montreal Gazette*, August 27, 1928, said that, in its opinion, Governor Smith was wrong in converting into principle a situation arising

from circumstances. "... this American Catholicism," it concludes, "is opposed against pure Catholicism. And there are not two Catholicisms . . . Victory would be magnificent assuredly, if not purchased with concessions of doctrine. It will have less significance if Mr. Smith merely causes the triumph of a liberal 'creed' in which the light of truth is singularly obscured."

Nevertheless, in *The Commonweal* of August 29, 1928, the Reverend Dr. Healy, Dean of the Theological Faculty in the Catholic University of America, is found demanding proof that the decrees of the Vatican Council were intended to apply to American conditions. But it will take a higher authority than Dr. Healy to convince the students of religious history that in the mind of Pope Pius XI, his Curia and his Hierarchy, American Catholics are released by the operation of American political principles from the burden of Papal supremacy and infallibility in accordance with the decrees of the Vatican Council.

It would be an anomalous situation in the long history of that Church, which has defined the great test of its faith to be that it has been believed by all Catholics, at all times, in all places, if its membership in the United States could develop for itself an American Catholi-

cism that involved a departure from the universal doctrine of the Church, and that in 1927 an American statesman could assert with Ecumenical authority convictions that seem to so many of his countrymen in disregard of those very decrees of the Church which the Supreme Pontiff in 1928 declared to be as integral in the faith as the Incarnation of Jesus Christ.

Within the present year Governor Smith's letter has again been placed before the world of European thought by M. Nicolas Fontaine in his brochure entitled *Saint-Siège, "Action française et 'Catholiques intégraux.'"*^s In a long history of *L'Action Française*, supplemented with an exhaustive array of documents, to which Governor Smith's letter is added, M. Fontaine discloses clearly his recognition of the fact that under the constitution of the modern State with its play of political forces the autonomy of the State is impaired, if not destroyed, by the subordination and obedience in the moral realm of the Roman Catholic solidarity within the State to the extraterritorial and alien sovereignty of the Pope in Divine Right. We quote, in translation, from his concluding paragraphs:

^s J. Gamber, Editor, Paris.

“... the Holy See, in demanding, for the discharge of its spiritual mission, the liberty of the spiritual society⁹ respecting political parties, destroys the political equilibrium and at the same time interferes more effectively than ever in that temporal power which it is forbidden to contest with Cæsar.”

The most grave problem that troubles the peace of the Church, he declares, “is not to measure the extent of Papal power but to define the character of ecclesiastical authority.”

Thus, within the same year, considerations drawn from the shipwreck by Papal interference of a political party in the Old World, and the questions forming in American consciousness in the New World, in view of the nomination of a distinguished Roman Catholic for the American Presidency, seem to demand, not from a self-constituted “American” Catholicism but from the high seat of authority in the Roman Catholic Church, an authoritative declaration as to the relation of that Church to the political order of the modern world.

Modern society must in the end agree with Burke that it cannot exist unless a controlling power upon will and appetite is placed some-

⁹ In Roman Catholic doctrine the Church or spiritual society is in its qualities superior to civil societies. This explains the reference to “the liberty of the spiritual society.”

where. It is manifestly impossible that the controlling power should be placed outside the State in the Supreme Pontiff of a Church of which only a part of the civic community are members. The only alternative, unsatisfactory, like all things human, though it may be, is to place it where the modern State places it—in the Civic Primacy of the People, in which all share, and balance it there with the moral supremacy *de jure* of the individual conscience—a conscience that is not mere choice or whim but the serious reaction of man to the divine impulse at the basis of human society. In the illumination of that conscience the Christian Churches, Roman and non-Roman, in Western civilization have been the potent factor, the controlling power upon will and appetite. Whatever form of government or polity the Christian religion has assumed in the historic past, the time seems to have come when the form of a juridical sovereignty in divine right, extraterritorial to every State, yet contesting the sovereignty of all States in the moral life of man is unsupportable. But there is a non-juridical Church, harmonious with the political life of the modern world—the Church that underlies the hierarchical organization. In the life of that Church, as Father Tyrrell said, “God’s spirit exercises a silent but sovereign

criticism and His effectual judgment is made known not in the precise language of definition and decree but in the slow manifestation of practical results."

The Roman Catholic Church is the Juridical Church:

"... if the laws of the State are manifestly at variance with the divine law, containing enactments hurtful to the [Roman] Church, or conveying injunctions adverse to the duties imposed by [Roman Catholic] religion, or if they violate in the person of the Supreme Pontiff the authority of Jesus Christ, then truly, to resist becomes a positive duty, to obey, a crime . . ."

Governor Smith's letter points to an American Catholicism remote from the juridical order:

"I recognize no power in the institutions of my Church to interfere with the operations of the Constitution of the United States or the enforcement of the law of the land."

Institutions change responsive to the changes in the thoughts and convictions of individuals who compose them. Changes in such thoughts and convictions shift the center of gravity in the political and religious fabrics of time. When that is accomplished the most imposing

of human institutions must change. Within the Roman Catholic Church great changes in thought and conviction may be developing toward "American" Catholicism, but of it Rome gives no sign of consciousness, and the Supreme Pontiff within the current year reaffirms the decrees of 1870 as integral in Catholic faith.

AN OPEN LETTER TO THE HONORABLE ALFRED E. SMITH

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I

SIR:—

The American people take pride in viewing the progress of an American citizen from the humble estate in which his life began toward the highest office within the gift of the nation. It is for this reason that your candidacy for the Presidential nomination has stirred the enthusiasm of a great body of your fellow citizens. They know and rejoice in the hardship and the struggle which have fashioned you as a leader of men. They know your fidelity to the morality you have advocated in public and private life and to the religion you have revered; your great record of public trusts successfully and honestly discharged; your spirit of fair play, and justice even to your political opponents. Partisanship bids fair to quail before the challenge of your personality, and men who vote habitually against your party are pondering your candidacy with sincere respect; and yet—through all this tribute there is a note of doubt, a sinister accent of

interrogation, not as to intentional rectitude and moral purpose, but as to certain conceptions which your fellow citizens attribute to you as a loyal and conscientious Roman Catholic, which in their minds are irreconcilable with that Constitution which as President you must support and defend, and with the principles of civil and religious liberty on which American institutions are based.

To this consideration no word of yours, or on your behalf, has yet been addressed. Its discussion in the interests of the public weal is obviously necessary, and yet a strange reticence avoids it, often with the unjust and withering attribution of bigotry or prejudice as the unworthy motive of its introduction. Undoubtedly a large part of the public would gladly avoid a subject the discussion of which is so unhappily associated with rancor and malevolence, and yet to avoid the subject is to neglect the profoundest interests in our national welfare.

American life has developed into a variety of religious beliefs and ethical systems, religious and nonreligious, whose claims press more and more upon public attention. None of these presents a more definite philosophy or makes a more positive demand upon the attention and reason of mankind than your vener-

able Church, which recently at Chicago, in the greatest religious demonstration that the world has ever seen, declared her presence and her power in American life. Is not the time ripe and the occasion opportune for a declaration, if it can be made, that shall clear away all doubt as to the reconcilability of her status and her claims with American constitutional principles? With such a statement the only question as to your proud eligibility to the Presidential office would disappear, and the doubts of your fellow citizens not of the Roman Catholic Church would be instantly resolved in your favor.

The conceptions to which we refer are not superficial. They are of the very life and being of that Church, determining its status and its relation to the State, and to the great masses of men whose convictions deny them the privilege of membership in that Church. Surely the more conscientious the Roman Catholic, and the more loyal to his Church, the more sincere and unqualified should be his acceptance of such conceptions.

These conceptions have been recognized before by Roman Catholics as a potential obstacle to their participation in public office, Pope Leo XIII himself declaring, in one of his encyclical letters, that "it may in some places

be true that for most urgent and just reasons it is by no means expedient for (Roman) Catholics to engage in public affairs or to take an active part in politics."

It is indeed true that a loyal and conscientious Roman Catholic could and would discharge his oath of office with absolute fidelity to his moral standards. As to that in general, and as to you in particular, your fellow citizens entertain no doubt. But those moral standards differ essentially from the moral standards of all men not Roman Catholics. They are derived from the basic political doctrine of the Roman Catholic Church, asserted against repeated challenges for fifteen hundred years, that God has divided all power over men between the secular State and that Church. Thus Pope Leo XIII, in 1885, in his encyclical letter on *The Christian Constitution of States*, says: "The Almighty has appointed the charge of the human race between two powers, the ecclesiastical and the civil, the one being set over divine, and the other over human things."

The deduction is inevitable that, as all power over human affairs, not given to the State by God, is given by God to the Roman Catholic Church, no other churches or religious or ethical societies have in theory any direct power from God and are without direct divine

sanction, and therefore without natural right to function on the same basis as the Roman Catholic Church in the religious and moral affairs of the State. The result is that that Church, if true to her basic political doctrine, is hopelessly committed to that intolerance that has disfigured so much of her history. This is frankly admitted by Roman Catholic authorities.

Pope Pius IX in the famous *Syllabus* (1864) said: "To hold that national churches, withdrawn from the authority of the Roman Pontiff and altogether separated, can be established, is error."

That great compendium of Roman Catholic teaching, the *Catholic Encyclopedia*, declares that the Roman Catholic Church "regards dogmatic intolerance, not alone as her incontestable right, but as her sacred duty." It is obvious that such convictions leave nothing in theory of the religious and moral rights of those who are not Roman Catholics. And, indeed, that is Roman Catholic teaching and the inevitable deduction from Roman Catholic claims, if we use the word "rights" strictly. Other churches, other religious societies, are tolerated in the State, not by right, but by favor.

Pope Leo XIII is explicit on this point: "The

(Roman Catholic) Church, indeed, deems it unlawful to place the various forms of divine worship on the same footing as the true religion, but does not, on that account, condemn those rulers who, for the sake of securing some great good or of hindering some great evil, allow patiently custom or usage to be a kind of sanction for each kind of religion having its place in the State."

That is, there is not a lawful equality of other religions with that of the Roman Catholic Church, but that Church will allow State authorities for politic reasons—that is, by favor, but not by right—to tolerate other religious societies. We would ask, sir, whether such favors can be accepted in place of rights by those owning the name of freemen?

II

Furthermore, the doctrine of the Two Powers, in effect and theory, inevitably makes the Roman Catholic Church at times sovereign and paramount over the State. It is true that in theory the doctrine assigns to the secular State jurisdiction over secular matters and to the Roman Catholic Church jurisdiction over matters of faith and morals, each jurisdiction being exclusive of the other within undisputed lines. But the universal experience of mankind

has demonstrated, and reason teaches, that many questions must arise between the State and the Roman Catholic Church in respect to which it is impossible to determine to the satisfaction of both in which jurisdiction the matter at issue lies.

Here arises the irrepressible conflict. Shall the State or the Roman Catholic Church determine? The Constitution of the United States clearly ordains that the State shall determine the question. The Roman Catholic Church demands for itself the sole right to determine it, and holds that within the limits of that claim it is superior to and supreme over the State. The *Catholic Encyclopedia* clearly so declares: "In case of direct contradiction, making it impossible for both jurisdictions to be exercised, the jurisdiction of the Church prevails and that of the State is excluded." And Pope Pius IX in the *Syllabus* asserted: "To say in the case of conflicting laws enacted by the Two Powers, the civil law prevails, is error."

Extreme as such a conclusion may appear, it is inevitable in Roman Catholic philosophy. That Church by the very theory of her existence cannot yield, because what she claims as her right and her truth she claims is hers by the "direct act of God"; in her theory, God himself directly forbids. The State cannot

yield because of a great mass of citizens who are not Roman Catholics. By its constitutional law and in the nature of things, practices of religion in its opinion inconsistent with its peace and safety are unlawful; the law of its being—the law of necessity—forbids. If we could all concede the “divine and exclusive” claims of the Roman Catholic Church, conflict would be eliminated; but, as it is, there is a wide consensus of opinion that those claims are false in fact and in flat conflict with the very being and order of the State.

In our constitutional order this consensus is bulwarked on the doctrine of the Supreme Court of the United States that our religious liberty and our constitutional guaranties thereof are subject to the supreme qualification that religious “practices inconsistent with the peace and safety of the State shall not be justified.” (*Watson v. Jones* 13 Wall. p. 679) ¹

The Roman Catholic Church, of course, makes no claim, and never has made any claim, to jurisdiction over matters that *in her opinion* are solely secular and civil. She makes the claim obviously only when the matter in question is not, *in her opinion*, solely secular and

¹ The words quoted are the words of the Supreme Court of Illinois in the case of *Chase v. Cheney*, 58 Ill. 509, which case is cited in *Watson v. Jones*.

civil. But as determination of jurisdiction, in a conflict with the State, rests solely in her sovereign discretion, no argument is needed to show that she may in theory and effect annihilate the rights of all who are not Roman Catholics, sweeping into the jurisdiction of a single religious society the most important interests of human well-being. The education of youth, the institution of marriage, the international relations of the State, and its domestic peace, as we shall proceed to show, are, in certain exigencies, wrested from the jurisdiction of the State, in which all citizens share, and confided to the jurisdiction of a single religious society in which all citizens cannot share, great numbers being excluded by the barriers of religious belief. Do you, sir, regard such claims as tolerable in a republic that calls itself free?

And, in addition to all this, the exclusive powers of the Roman Catholic Church are claimed by her to be vested in and exercised by a sovereignty that is not only created therefor by the special act of God, but is foreign and extraterritorial to these United States and to all secular states. This sovereignty, by the highest Roman Catholic authority, that of Pope Leo XIII, is not only superior in theory to the sovereignty of the secular State, but is substi-

tuted upon earth in place of the authority of God himself.

We quote Pope Leo in his encyclical letter on *The Christian Constitution of States*: "Over the mighty multitude of mankind, God has set rulers with power to govern, and He has willed that one of them (the Pope) should be the head of all."² We quote Pope Leo in his encyclical letter on *The Reunion of Christendom*: "We who hold upon this earth the place of God Almighty."

It follows naturally on all this that there is a conflict between authoritative Roman Catholic claims on the one side and our constitutional law and principles on the other. Pope Leo XIII says: "It is not lawful for the State, any more than for the individual, either to disregard all religious duties or to hold in equal favor different kinds of religion." But the Constitution of the United States declares otherwise: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

Thus the Constitution declares the United States shall hold in equal favor different kinds of religion or no religion and the Pope declares

² The foregoing quotation was erroneous in the inadvertent interpolation of words "of mankind." It was withdrawn on representation that its reference was to bishops and not to secular rulers.

it is not lawful to hold them in equal favor. Is there not here a quandary for that man who is at once a loyal churchman and a loyal citizen?

Pope Leo says that the Roman Catholic Church "deems it unlawful to place the various forms of divine worship on the same footing as the true religion." But the Supreme Court of the United States says that our "law knows no heresy and is committed to the support of no dogma, the establishment of no sect." (*Watson v. Jones* 13 Wall. p. 728)

Americans indulge themselves in the felicitation that they have achieved an ideal religious situation in the United States. But Pope Leo, in his encyclical letter on *Catholicity in the United States*, asserts: "It would be very erroneous to draw the conclusion that in America is to be sought the type of the most desirable status of the Church." The modern world reposes in the comfortable reflection that the severance of Church and State has ended a long and unhappy conflict, when the same Pope calls our attention to the error of supposing "that it would be universally lawful or expedient for State and Church to be, as in America, dissevered and divorced."

Is our law, then, in papal theory, no law? Is it contrary to natural right? Is it in conflict with the will and fiat of Almighty God?

Clearly the Supreme Court and Pope Leo are profoundly at variance. Is it not obvious that such a difference of opinion, concerning the fundamental rights between two sovereignties operating within the same territory, may, even with the best intentions and the most sensitive consciences, be fruitful of political offenses that are odious among men?

Citizens who waver in your support would ask whether, as a Roman Catholic, you accept as authoritative the teaching of the Roman Catholic Church that in case of contradiction, making it impossible for the jurisdiction of that Church and the jurisdiction of the State to agree, the jurisdiction of the Church shall prevail; whether, as statesman, you accept the teaching of the Supreme Court of the United States that, in matters of religious practices which in the opinion of the State are inconsistent with its peace and safety, the jurisdiction of the State shall prevail; and, if you accept both teachings, how you will reconcile them.

III

At the present time no question assumes greater importance than the education of youth. The legislatures of Tennessee, of Oregon, and of Nebraska have of late laid

impious hands upon it and the judiciary has sternly curbed them. From what has been said above, it is clear that the claims of the Roman Catholic Church touching this point, more than those of any other institution, may conflict with the authority of the State.

It is true that in the famous Oregon School cases the Supreme Court of the United States held a state law unconstitutional that forbade parents to educate their children at church schools of every denomination. But there was no assertion in the law that the church schools in question gave instruction inconsistent with the peace and safety of the State and there was no allegation of that tenor in the pleadings. On the record the church schools were void of offense. But, had that feature existed in the cases, it would necessarily have led to a reversal of the decision. There would have been a conflict between Church and State as to whether the instruction was inconsistent with the peace and safety of the State. The Roman Catholic Church, if true to her doctrine and dogma, would have had to assert exclusive jurisdiction over the determination of this point. Equally the State, in self-preservation, would have had to assert exclusive jurisdiction. The conflict would have been irreconcilable. What would have been the results and what the

test of a sincere and conscientious Roman Catholic in executive office or on the bench?

Nothing can be clearer to the American mind than that the plain political teaching of Pope Pius IX and of Pope Leo XIII, as set forth in their encyclical letters, is inconsistent with the peace and safety of the State within the meaning of those words as used by the Supreme Court of the United States in its great decision. That it is "not lawful for the State to hold in equal favor different kinds of religion"; that it is not universally lawful for the State and the Roman Catholic Church to be dissevered and divorced; that the various kinds of religion in theory have their place in the State, not by natural right, but by favor; that dogmatic intolerance is not alone the incontestable right of the Roman Catholic Church, but her sacred duty; that in the case of conflicting laws of the State and the Roman Catholic Church the law of that Church shall prevail, are propositions that would make up a strange textbook for the instruction of American youth.

IV

A direct conflict between the Roman Catholic Church and the State arises on the institution of marriage, through the claim of that Church that in theory in the case of all baptized per-

sons, quite irrespective of specific consent, Protestants and Roman Catholics alike, jurisdiction touching marriage is wrested from the State and appropriated to the Roman Catholic Church, its exercise reposing ultimately in the Pope. In Roman Catholic theory the civil contract over which the State claims jurisdiction merges in the religious sacrament of marriage, which is, as to baptized persons, exclusively within the jurisdiction of the Roman Catholic Church. Pope Pius IX in 1864 proclaimed in the famous *Syllabus*: "It is error to hold that the sacrament of marriage is only a something accessory to the contract and separate from it."

It would be generally conceded that the Roman Catholic Church—and indeed any religious society—has the natural right, in case of a question as to the validity of the marriage of a member, to determine as to whether that member may receive its sacramental ministrations and on what terms. Action by the Church would obviously relate only to the religious incidents of the civil contract and would leave untouched the civil contract over which the State claims jurisdiction. But the doctrine expressed by Pope Pius IX and the nature of the claims of his Church forbid such reasonable action. The Church proceeds in disregard of

the law and sovereignty of the State, and claims, at its discretion, the right to annul and destroy the bond of the civil contract. The practical result of such claims in the conflict of Church and State appears in the light of the recent and notorious annulment of the Marlborough marriage.

The essential facts are few. It was the case of a marriage between two "Protestants," solemnized within the sovereignty of the State of New York, by ecclesiastics of the Episcopal Church duly authorized in the matter by the commission of that sovereignty. The parties took up their residence within the sovereignty of England. Twenty-five years after the marriage, and after the birth of two children, the wife, disregarding the remedy of annulment that existed in the law of England and in the law of New York, as well as in the Roman Catholic Church (and, if she were entitled to it at all, could have been had for the asking in either jurisdiction), sued the husband for divorce in the English courts, on the grounds of his gross misconduct. The divorce was granted. After the divorce both parties contracted civil marriages with new partners, religious marriages being difficult for them for obvious reasons. The wife's second marriage was contracted with a Roman Catholic. An

annulment of the first marriage became manifestly desirable.

In the courts of New York and of England, several matters barred the way. New York had solemnized the contract under the due and usual safeguards as to the freedom of the contracting parties, and, in her sovereign right, recognized the contract as valid. England, at the request of the wife, had recognized the New York contract as valid and had taken jurisdiction over it so as to base the civil decree of divorce upon it. The parties for twenty-five years had proceeded in a course of life based on the assumption that the marriage was valid, and the wife, by her own election under the advice of able counsel, had waived all claim to annulment and had sought divorce. In the jurisprudence of every civilized country the wife was estopped from claiming annulment by her own acts, by the lapse of time, and by the conclusive presumptions of secular law established in the interest of social morality and the sanctity of contracts. But the wife applied to the Roman Catholic authorities, who granted the annulment upon the theory that she had been under fear and duress at the time of the marriage thirty-one years before, and had not known in all that time that such fear, if it existed, established her right in the Roman

Catholic court to an annulment. Disregarding facts in the case which might reflect upon the ingenuousness of the ecclesiastical court of the Sacred Rota at Rome, we would point solely to the fact that in the proceeding before that court the sovereignties of New York State and of England, and all that they had done in the matter, were ignored. The evidence at the time on the record of the English court, and conclusively against the claims of the wife, was not even produced. The decree was granted on an *ex parte* hearing, on the testimony of interested witnesses only. It would be difficult to find a more utter disregard of the sovereignty of States than this by the sovereignty of Rome, touching that comity which, in good morals and public decency, is supposed to exist between sovereign powers.

In your opinion, sir, are such proceedings consistent with the peace and safety of States?

V

The Mexican situation has brought the claims of the Roman Catholic Church into great prominence in this country. It is inevitably linked with issues that will concern the Executive Office at Washington for the next term. We have been very fully advised of the claims of the Church in the matter through the

official opinion of that eminent jurist and Roman Catholic, Mr. William D. Guthrie, of the American Bar, prepared at the request of the Roman Catholic Hierarchy of America and extensively circulated.

Mr. Guthrie challenges the right of Mexico to enact into her constitution the provision that "the Mexican law recognizes no juridical (that is, juristic) personality in the religious institutions known as churches."

It must be borne in mind that this provision is not a statutory enactment of administrative law under a constitution—it is a part of the constitution itself, of the organic law legally adopted by the political sovereignty of the Mexican people, absolute and supreme in creating their constitutional conditions. The opinion claims that this provision violates international law, the principles of liberty and justice of the civilized world and of American constitutional law. If the opinion is right, then a political sovereignty, convinced that its existence is best served by the constitutional elimination of churches as juristic personalities, cannot lawfully proceed so to decree in its constitution.

Further, Mr. Guthrie maintains: "The Roman Catholic Church is not opposing the separation of Church and State in Mexico, provided

that such separation be not a sham or screen, and will leave the Church free to teach the Gospel, to educate children, and inculcate sound and true spiritual doctrine and moral rules of conduct, without dictation from or supervision by government officials, and subject to reasonable police regulation.”

The opinion proceeds upon the theory that the Roman Catholic Church should determine, in case of conflict with Mexican sovereignty, what are “sound and true spiritual doctrine and moral rules of conduct.” The political teaching of Pope Leo XIII or the *Syllabus* of Pope Pius IX would be regarded as sound and true by the Roman Catholic Church, but it would in reason be regarded as suicide by the autonomous Mexican State—or any other State.

Mr. Guthrie enthusiastically quotes Lord Acton: “Where ecclesiastical authority is restricted, religious liberty is denied.” And he invokes public opinion in the United States, and international opinion generally, in a protest against the Mexican constitutional and legal situation, because, he says, it is “in clear conflict with the basic doctrine of the Roman Catholic Church, and the deep belief of her members, that she is ecumenical and universal in the very sense and scope of the belief that

all people ought to worship God, and that their Church (the Roman Catholic Church) was founded by Christ, true God and true Man, for the governance of all men living under the skies.”

The claim here asserted for the Roman Catholic Church is exclusive of every other religious foundation as having any spiritual rights under the Saviour of Mankind; and it is bluntly asserted in a word that connotes a sovereign jurisdiction in theory over all men in spiritual affairs without regard to their assent. It is the last official promulgation of the ancient and dangerous theory of the Two Powers.

Americans, as well as other peoples, may deplore the Mexican standard of what is inconsistent with the peace and order of the State; but we submit that the application of the Mexican standard by the Mexican people in Mexican affairs, in the assertion of an undisputed national sovereignty within its own territory and over its own people, cannot be held contrary to reason, and null and void in law, however much it may impugn the sovereign claims of the Roman Catholic Church, afford a minority a reason for rebellion, or offend the sentiments of other nations.

Mr. Guthrie's appeal opens up international

questions of a grave character. He assures us that the problem of dealing with the Mexican situation "is extremely delicate and complex"; that the Mexicans are "resentful of foreign advice or interference, especially on our part"; that "our treatment at times has inflamed a sensitive and proud people to intense indignation"—and so forth.

In all this may inhere a long series of unhappy international episodes. Into the complex of prejudice and resentment of a sensitive and proud people, according to Mr. Guthrie we are to project American opinion that the Mexican Constitution is intolerable because it invades the prerogatives of the ecumenical and universal Roman Catholic Church. We are, by the expression of American opinion, to invade the sovereign rights of Mexico and at the same time to register our own surrender of religious liberty *de jure* to the claims of that Church.

How serious might be the crisis, if Mr. Guthrie's premises were to be accepted by the people of the United States, is seen in his declaration that "many historical precedents of action on the part of the Government of the United States of America, as well as of other countries, could be cited which would abundantly support a protest or remonstrance, and even armed intervention, at the present time in

Mexico, in order to assure to the Mexican people religious liberty." Armed intervention!—and, Mr. Guthrie goes on to explain, the Papacy and the Mexican Hierarchy refrain from asking for it, not because it is unlawful and unreasonable, but because "history admonishes them of the horrors of civil war and of the danger of inviting interference by foreign powers and arms to compel what the aggressors conceive to be either religious liberty or the only true faith." It is clear that Washington is saved an international episode only out of considerations of expediency and policy by the Papacy and the Mexican Hierarchy.

"To this Society (the Roman Catholic Church)," wrote Pope Leo XIII in his encyclical letter on *The Christian Constitution of States*,³ "the only begotten Son of God entrusted all the truths which He had taught in order that it might keep and guard them and with lawful authority explain them, and at the same time He commanded all nations to hear the voice of the (Roman Catholic) Church as if it were His own, threatening those who would not hear it with everlasting perdition."

It is the voice of that Church that speaks to America by the American Hierarchy in the

³ Read *Human Liberty* in place of *The Christian Constitution of States*.

words of its distinguished counsel in the Mexican situation; and your fellow citizens are concerned to inquire what authority you ascribe to that voice.

VI

We have no desire to impute to the Roman Catholic Church aught but high and sincere motives in the assertion of her claims as one of the Two Powers. Her members believe in those claims, and, so believing, it is their conscientious duty to stand for them. We are satisfied if they will but concede that those claims, unless modified and historically redressed, precipitate an inevitable conflict between the Roman Catholic Church and the American State irreconcilable with domestic peace. With two illustrations—and those relating to English Christianity—we have done.

In the sixteenth century the decree of Pope Pius V in terms deposed Elizabeth, Queen of England, from the English throne and absolved her subjects from their allegiance. The result is well known. Much that pertained to the venerable forms of religion in the preceding centuries became associated in the popular mind of England with treason—even the Mass itself when celebrated in the Roman form. Roman Catholics were oppressed in their

rights and privileges. Roman Catholic priests were forbidden within the realm. The mills of God turned slowly, but they turned. The Roman Catholics of England endured the penalties of hostile legislation with heroic fortitude and resignation. Public opinion slowly changed and gradually Roman Catholic disabilities were removed, and in 1850, under Cardinal Wiseman, the Roman Catholic Hierarchy was restored in England, with no other condition than that its sees should not use the ancient titles that the Hierarchy of the Church of England had retained. Peace and amity reigned within the realm, irrespective of different religions, and domestic repose marked a happy epoch. But the toleration and magnanimity of England bore strange fruit. Scarcely was the Roman Hierarchy restored to its ancient privileges when the astounding *Apostolic Letter* of Pope Leo XIII appeared (1896), declaring to the world that the orders of the Church of England were void, her priests not priests, her bishops not bishops, and her sacraments so many empty forms.

But this was not all. Reaching hands back through three centuries, the Roman Pontiff drew from obscurity the case of John Felton, an English citizen who in 1570, contrary to the law of treason at that time on the statute

book of England, posted on the walls of London the decree of Pope Pius V already referred to, deposing the English Queen. Felton was beatified in 1886 by the act of Pope Leo XIII.

The honors paid him were rendered three hundred years after his treasonable act. There lies their sinister import. They are no part of the mediæval milieu; they belong to the modern world and must have judgment not by mediæval but by modern standards. One would have supposed, in view of the critical situation in modern States in relation to the respect for authority of government and the obedience of citizens to the law, that the beatification might have been omitted. One would have supposed that the changes in political thought and theory through three hundred years would have dictated the wisdom of letting the dead past bury its dead, and the memory of blessed John Felton rest in peace with those abandoned political doctrines that inspired his heroic but unhappy deed.

Is the record of the Roman Catholic Church in England consistent, sir, in your opinion, with the peace and safety of the State?

Nothing will be of greater satisfaction to those of your fellow citizens who hesitate in their endorsement of your candidacy because

of the religious issues involved than such a disclaimer by you of the convictions here imputed, or such an exposition by others of the questions here presented, as may justly turn public opinion in your favor.

Yours, with great respect,

CHARLES C. MARSHALL.

As noted in the preface hereto, Governor Smith's reply entitled *Catholic and Patriot* which was published in *The Atlantic Monthly*, May, 1927, is not reprinted here owing to the restrictions of the copyright law. It will be found reprinted in *Progressive Democracy: Speeches and State Papers of Alfred E. Smith*, edited by Dr. Henry Moskowitz and published by Harcourt, Brace & Co., New York.

MR. MARSHALL'S REJOINDER TO GOVERNOR SMITH'S REPLY

(Released by the United Press Association, April 17, 1927)

New York, April 17, 1927.

HON. ALFRED E. SMITH,
Sir:

A copy of your answer to my Open Letter in *The Atlantic Monthly* for April was brought to me by members of the press today. A substantial copy of it had already appeared in a newspaper, as you know, and had been brought to my notice on Saturday. I beg to submit this reply.

With your customary directness you make a disclaimer for yourself of the convictions imputed by me to Roman Catholics in my Open Letter. Had you stopped with that disclaimer, this reply would be superfluous, but you say that these convictions are not held by any American Roman Catholic as far as you know. The convictions I imputed I supported by citations from the Encyclical Letters of Pope Leo XIII. You repudiate my citations as inexact and as detached from a necessary context. This is a matter of opinion and I cannot

yield to your claim in the matter. The Encyclical Letters are accessible and if nothing else has been accomplished by our controversy than to secure their careful reading by the American public, it is enough.

I cannot allow to pass unnoticed your challenge of my proof and your statement that the convictions imputed are not held by American Roman Catholics as far as you know. As a Roman Catholic—nay, even as a public official, you must know the common teaching of your church now being disseminated in high schools, academies and colleges throughout the land. That teaching, I submit, confirms the convictions I imputed touching the irreconcilability of the status and the claim (i.e., the polity) of the Roman Catholic Church with American constitutional principles. *That* is the subject of my inquiry; not, as you persist in declaring, faith, or religion, or dogma, but doctrine, teaching and polity. I have submitted a question of institutional principle and of public law, now present and exigent among us, and its discussion cannot and should not be screened or shunted by the cry of religious controversy.

I quote from the *Manual of Christian Doctrine*, published by John Joseph McVey (Philadelphia, 1926), under the *imprimatur* of Archbishop Dougherty, now Cardinal. The book is

stated in its preface to be a manual of religious instruction not only in the novitiates and scholasticates of teaching congregations, but also in high schools, academies and colleges. It is now in the forty-eighth edition. I insert, for obvious reasons, the words parenthesized.

Question: "In what order or respect is the State subordinate to the (Roman Catholic) Church?" Answer: "In the spiritual order and in all things referring to that order."

Q. "What right has the Pope in virtue of this supremacy?" A. "The right to annul those laws or acts of government that would injure the salvation of souls or attack the natural rights of citizens."

Q. "What more should the State do than respect the rights and the liberty of the (Roman Catholic) Church?" A. "The State should also aid, protect, and defend the (Roman Catholic) Church."

Q. "What then is the principal obligation of heads of states?" A. "Their principal obligation is to practice the (Roman) Catholic religion themselves, and, as they are in power, to protect and defend it."

Q. "Has the State the right and the duty to proscribe schism or heresy?" A. "Yes, it has the right and the duty to do so both for the good of the nation, and for that of the

faithful themselves; for religious unity is the principal foundation of social unity." (McVey, p. 132.)

Now I am in Roman opinion a schismatic and a heretic. So are millions of my fellow Americans. I object, and I think under American constitutional principles that I have a right to object, to the children of twenty million of my fellow citizens being taught that it is the right and duty of the American State to proscribe my religious belief. Is my objection substantial or is it merely legalistic? Am I, as you suggest, one of the theorists who have played for generations with the theory of Church and State? You say in your answer that in the wildest dream of my imagination I cannot conjure up a possible conflict between religious principle and political duty in the United States, except on some unthinkable hypothesis, but I insist the conflict is here in the very teaching of this manual. You say in your answer that the true construction of my quotation from the Pope himself is diametrically the opposite of what I stated it to be, and yet here in this manual is the current instruction given to the children of twenty million citizens, and I submit that it entirely agrees with my construction of the quotations in question. You say you think that I have

taken my thesis from the limbo of defunct controversy. Is this defunct controversy? You ask me in your answer: "What is this conflict about which you talk?" My answer is that it is the very conflict between Church and State revealed in this *Manual of Christian Doctrine*. It is the conflict between those who claim to have the right to live in a state that has wholly renounced the right to proscribe heresy and schism, without having their rights menaced by the organized and systematic teaching that it is the right and duty of that State to proscribe heresy and schism.

I continue my quotations:

Q. "When may the State tolerate dissenting worships?" A. "When these worships have acquired a sort of legal existence consecrated by time and accorded by treaties or covenants."

Q. "May the State separate itself from the (Roman Catholic) Church?" A. "No, because it may not withdraw from the supreme rule of Christ."

Q. "What name is given to the doctrine that the State has neither the right nor the duty to be united to the (Roman Catholic) Church to protect it?" A. "This doctrine is called Liberalism. It is founded principally on the fact that modern society rests on liberty of

conscience and of worship, on liberty of speech and of the press."

Q. "Why is Liberalism to be condemned?"

A. (1) "Because it denies all subordination of the State to the (Roman Catholic) Church. (2) Because it confounds liberty with right. (3) Because it despises the social dominion of Christ, and rejects the benefits derived therefrom." (McVey, pp. 132, 133.)

If you will insist that this teaching applies only to the ideal Roman Catholic state, may I ask why it is taught in this United States, which is not an ideal Roman Catholic state? If you say that it has only an ideal application, I ask then why is the instruction given in parochial schools? Is it not really instruction given in order to make the United States an ideal Roman Catholic state? You will say that every church is trying to convert the American people to its tenets. That may be true, but I know of no other church that accompanies the attempt with the teaching that its head has the right to annul any of the laws or acts of government, or that its religion, being the only true religion, possesses natural rights and therefore is entitled to legal rights which are in theory denied to every other religion as rights. I know of no other church that accompanies such teaching with the asser-

tion that the religion of Christ is divinely and exclusively lodged in a political sovereignty extraterritorial and foreign to every state, and yet claiming jurisdiction over morals in all states. I know of no other church that accompanies its teaching with the claim that its head is the Vicar of Christ, and, to quote the words of Pope Leo XIII, "holds upon this earth the place of God Almighty." The aggregate of this doctrine and teaching spreading among the twenty millions of people and their children segregated in the Roman Catholic Church, cannot help but engender those conceptions which in the opening paragraph of my Open Letter I said your fellow citizens considered irreconcilable with our constitutional principles. I understand you to say that you disclaim them, and I accept your disclaimer, but I submit that you are wholly wrong in your statement that these convictions are not held by other American Catholics. I submit they are the universal, organized and constant teaching of the Roman Catholic Church.

You persist in assuming that I make an imputation of disloyalty to country. Summarizing my letter you say: "Taking your letter as a whole and reducing it to commonplace English, you imply that there is conflict between religious loyalty to the (Roman)

Catholic faith and patriotic loyalty to the United States." I think there is a sad injustice in this to me and to the subject of our controversy. The difference in opinion as to national policy and even a difference as to constitutional question and constitutional jurisdiction, is not disloyalty. The Supreme Court decides five to four on such questions, and I have never heard disloyalty imputed to the four. Constitutional interpretation, application, and amendment go on continually. My question is as to the reconcilability of the status and claims of a church-institution with American constitutional principles—and you say that I impute disloyalty. If you are right, the public in this country must refrain from discussing the polity of the Roman Catholic Church, for to discuss it is to impute disloyalty! Now disloyalty involves the intent to be disloyal. I have suggested no such thing. I do not charge that the teaching in the *Manual of Christian Doctrine* is disloyal in the sense in which you use that word, but I do say it is dangerous and pernicious, and one against which citizens other than Roman Catholics have a right to protest and to act.

No one is more willing than I to acknowledge the splendid record of Roman Catholic achievement in duty well performed in our civic and

communal life, upon the field of battle, and in every department of human service. In positions of the highest trust and confidence, Roman Catholics have registered the same degree of achievement, self-sacrifice, heroism and fidelity that has been registered by the members of other religious societies, and by men of no religious affiliations whatever. The Hebrew state, the sovereignty of England, the princedoms of Germany, and that sovereignty of Rome in which Latin Christianity has enshrined itself, have all sheltered religious developments of profound import and of the highest spiritual value. I based my inquiries on the polity of the Roman Catholic Church and you persist in discussing its faith and religion. In my view the faith and the polity are two very different things, although there are Roman theologians who make them one. All that I say is directed against the polity of that Church, and has no reference to its religion. The conviction of the Roman Catholic Church that the religion of Christ is wholly and exclusively committed to her, and that the political sovereignty of the papacy was created by the direct act of God for the purpose of exclusively administering and dispensing that religion among men; that her apostolic head teaches with the voice of Christ Himself; that

as rights cannot be based on error, other religious societies, being all in error, have in theory no legal right, have all resulted in a polity that is in conflict with the rights of all non-Roman Catholics. More than this, they develop in the human mind subjected to the teaching of that church, those conceptions that I referred to in the first paragraph of my Open Letter to you as irreconcilable with the principles of civil and religious liberty. Hilaire Belloc, one of your most distinguished laymen, declares:

“The Roman Catholic Church is, in its root principle, at issue with the civic definitions of freedom and authority.”

The conceptions to which I refer above necessarily form a conscience and mould a judgment that in the end will sway action against the contradictory views and interests of their fellowmen. Direct issues may be long in forming, but they are sure to come. The erroneous theory built upon is sure to eat its way out and then the downfall. The Reformation came at the end of hundreds of years as the result of the working out of the erroneous theory of papal absolutism. The Civil War came after a half century of national existence as the result of an erroneous theory in regard to the rights of man.

You cannot have two perfect sovereignties in one territory without the conflict of jurisdiction always imminent. The Roman Catholic Church in the theory of the two powers has sought by every careful word to delimit the jurisdiction of each, and the defining has been a failure all along the course of history. Cardinal Gibbons himself in his well-known article in the *North American Review* of March, 1909, admits what I claim, that there is between the jurisdiction of the State and that claimed for the Roman Catholic Church a "twilight zone" of disputed jurisdiction. He concedes the place of danger, though he denies that danger is imminent. Human opinion will differ as to his conclusion in spite of his reassuring words, and his "twilight zone" will, in the opinion of many, be in the future what it has been in the past, the pregnant source of trouble to plague the nations of the world.

You speak of the freedom of conscience, and by your disclaimer you own its possession for yourself, but many have not your mental dexterity or your moral courage, and among the millions without those gifts, the plight of conscience is a serious problem when behind it is one who speaks, in their belief, with the voice of God, and before them is the terror of excommunication.

There can be no possible analogy between the human conscience moulded in the school of the *Manual of Christian Doctrine* and the conscience moulded in that school of Liberalism which the manual describes as founded on liberty of conscience and of worship, on liberty of speech and of the press. It was with tremendous, though I fear unsuspected, significance that the lamented Cardinal Mercier, in his last pastoral to the Belgian Episcopate, apostrophized the Holy See—the papacy—“the accepted and cherished supremacy of one conscience over all other consciences, of one will over all other wills.”

At the close of your answer you say: “In this spirit I join with fellow Americans of all creeds in a fervent prayer that never again in this land will any public servant be challenged because of the faith in which he has tried to walk humbly with his God.”

I trust I have made myself sufficiently clear that you mistake for a question of faith, a question relating to the polity of a church political sovereignty that proclaims its position by asking even at the present hour a place among the sovereignties of mankind at the council board of the League of Nations. If, sir, within the purview of these facts, the public officials of the state of New York, or of the

United States, cannot be questioned by inquiring citizens touching matters of public law and institutional life without being charged with meddling with personal matters of faith and religion, popular government is in a perilous state.

In closing, let me say with the greatest emphasis that no view I have expressed has been intended to suggest the placing of a ban against candidacy for office because of religion. The way out lies by no such unhappy path; and your disclaimer is my voucher for this assertion. It is often said your venerable Church never changes, but history proves this is not true. There is transforming religion within her as well as a confining polity. In spite of the latter, imposing indeed is her store of the riches of grace, piety and devotion. She may be encumbered at present with the undiscarded traditions of mediævalism, but she is alert to the call of her divine Master. May your disclaimer mark the beginning of the era when that Church may so redress her historic claim that the whole Christian world may be one with her and her polity be brought into harmony with the modern State.

Yours, with great respect,

CHARLES C. MARSHALL.

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